

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL RHYMES,

Case No. 3:17-cv-00679-MMD-CLB

Plaintiff,

ORDER

JOHN KEAST, *et al.*,

Defendants.

Pro se Plaintiff Michael Rhymes brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Carla L. Baldwin (ECF No. 48), recommending that Defendants’ motion for summary judgment (ECF No. 39) be denied. The parties had until December 14, 2020 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will deny Defendants’ motion for summary judgment. Moreover, Counts I and III will proceed against Defendants Romeo Aranas, Gaylene Fukagawa, John Keast, Melissa Mitchell, Candis Rumbar, and Theresa Wickham, and Count II against Jane Doe is dismissed without prejudice.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72 Advisory Committee Note.

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1 Committee Notes (1983) (providing that the Court "need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation.").

3 Because there is no objection, the Court need not conduct *de novo* review, and is
4 satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends
5 Defendants' motion for summary judgment be denied as Defendants have failed to
6 demonstrate that there are no genuine issues of material fact and have not shown they
7 are entitled to qualified immunity at this time. (ECF No. 48 at 6-11.) The Court agrees with
8 Judge Baldwin. Having reviewed the R&R and the record in this case, the Court will adopt
9 the R&R in full.

10 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF
11 No. 48) is accepted and adopted in full.

12 It is further ordered that Defendants' motion for summary judgment (ECF No. 39)
13 is denied.

14 It is further ordered that Counts I and III alleging deliberate indifference claims
15 against Defendants Romeo Aranas, Gaylene Fukagawa, John Keast, Melissa Mitchell,
16 Candis Rumbar, and Theresa Wickham will proceed.

17 It is further ordered that Count II claim against Jane Doe is dismissed without
18 prejudice.

19 DATED THIS 17th Day of December 2020.



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22 MIRANDA M. DU
23 CHIEF UNITED STATES DISTRICT JUDGE
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